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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 5673 of 2006
Date of decision: 17.9.2007

Suman Jolly ...Petitioner

Versus

Surinder Pal Singh Rangi ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Hemant Bassi, Advocate for the petitioner.

Mr. Ashok Gupta, Advocate for the respondent.

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RAJESH BINDAL, J.

The challenge in the present revision petition is to the order dated May 15, 2006 passed by the Civil Judge (Junior Division), Chandigarh whereby application filed by the respondent/plaintiff under Order 11 Rules 12 and 14 of the Code of Civil Procedure (for short "the Code"), for discovery and production of documents, was accepted.

Heard Shri Hemant Bassi, Advocate counsel for the petitioner and Shri Ashok Gupta, Advocate, counsel for the respondent.

Learned counsel for the petitioner submitted that the impugned order passed by the Court below is patently illegal as an earlier application filed by him on January 19, 2005 was dismissed on August 12, 2005. Thereafter subsequent application was filed by him on September 22, 2005, which resulted into passing of the impugned order. He further submitted that in terms of the provisions, under which the application was filed, the learned trial Court was required to record a satisfaction that the documents, regarding which the direction was issued, were relevant for the decision of the case. He referred to the judgment of this Court in Civil Revision No.4671 of 2002 (M/s Salient Crafts Vs. M/s Test-N Rai International & others) decided on September 12, 2006, where the matter was remitted

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back to the trial Court for considering the fact as to which of the documents were relevant for the purpose of decision of the matter in dispute.

On the other hand, learned counsel for the respondent submitted that the present petition deserves to be dismissed as such for the simple reason that the claim made in the suit is for recovery on account of non payment of salary by the petitioner/defendants, as respondent/plaintiff remained in service with him. The record sought to be produced by him was required for the just and proper decision of the controversy in the suit and it does not lie in the mouth of the petitioner to raise objection for production of record, which could lead to justice between the parties. On the issue of filing of earlier application and then filing the second application, it was submitted that earlier application filed by the respondent was rejected merely for the reason that a vague contention was made therein that entire service record of every nature was called without mentioning the details thereof. Whereas in the application filed subsequently respondent/plaintiff had mentioned specifically the record, which was in the possession of the petitioner and was required for the just and fair decision of the lis between the parties. He further submitted that in an identical circumstances, with regard to claim made by another employee of the petitioner, learned trial Court had accepted the prayer for production of record by passing a separate order on the same date, which was impugned by the petitioner in separate Civil Revision No.5674 of 2006 (Suman Jolly Vs. Yadvinder Singh Mann), which was dismissed by this Court vide order dated January 18, 2007.

A perusal of the order passed by this Court in Suman Jolly's case (supra) shows that the contention sought to be raised by the petitioner here regarding non recording of satisfaction for ordering the production of record was also raised and considered. It was opined that since the respondent had claimed the arrears of salary, accordingly, the service record for that period will serve the purpose. To prove the leave encashment, gratuity and earned leave etc. the service book of respondent therein was found to be sufficient.

In the present case also after examining the claim made by the

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respondent and considering the earlier order passed by this Court under identical circumstances, it is found that in a suit where the claim is for payment of salary, the service book of respondent/plaintiff and the record of the salary paid to the respondent/plaintiff for the period from October 1, 1999 to October 31, 2002 and the record regarding tax deducted at source from the salary paid/payable to the respondent/plaintiff and deposited in the Income Tax Department, would be relevant and sufficient. The petitioner is, accordingly, directed to produce the same. The matter is not being remitted back to the trial Court for consideration of the justification for the record for the simple reason that same will unnecessarily delay the proceedings and secondly in an identical case pertaining to the petitioner only this Court had already granted similar relief to the plaintiff therein.

Accordingly, the revision petition is disposed of with a direction to the petitioner to produce the record only as mentioned above.

September 17, 2007 **(Rajesh Bindal)**
Pka **Judge**